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FULTON COUNTY
COMMON PLEAS COURT

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MARY GYPE
CLERK

IN THE COURT OF COMMON PLEAS
FULTON COUNTY, OHIO

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO,

Plaintiff,

v.

KURDZIEL IRON OF
WAUSEON,

Defendant.

CASE NO. 98CN000211

JUDGE BARBER

CONSENT ORDER

The Complaint in this matter having been filed herein, and the Plaintiff State of Ohio, by its Attorney General Betty D. Montgomery and Defendants Kurdziel Iron of having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 3704 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concern or privity with any of them.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint, *inter alia*, that Defendant installed and operated sources without permits, emitted excessive particulate matter and failed to install required control equipment in violation of the air pollution control laws and regulations of the State of Ohio.

4. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all violations alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations not alleged in the Complaint, including violations which occur after the entry of this Consent Order.

IV. PERMANENT INJUNCTION

5. Defendant is hereby enjoined and ordered to immediately and permanently comply with Ohio Admin. Code Rules 3745-31-02, 3745-17-11 and 3745-15-07. Defendant is further enjoined and ordered to comply with the terms and conditions of all permits to install and permits to operate and any Title V permit issued to it.

6. Within 60 days after entry of this decree, Defendant is ordered to submit a complete permit to install application for the cupola, Source No. P004. From the date of entry of this Consent Order until the date a final PTI is issued for Source No. P004, Defendant is enjoined to comply with a particulate matter emission unit of 28.3 lbs/hr.

7. At the time this Consent Order is entered, Defendant has voluntarily suspended operation of the cupola. If Defendant restarts operations of the cupola, it is enjoined to do the following: (1) notify Ohio EPA Northwest District Office seven days prior to commencing operations; (2) submitting an intent to test form for the stack testing the cupola within 30 days after operations are recommended; and (3) stack testing the cupola within 60 days after recommencing operations.

V. CIVIL PENALTY AND CREDIT PROJECT

8. In addition to the injunctive relief set forth, Defendant shall pay a civil penalty of Eighty Five Thousand dollars (\$85,000). Payment of sixty-three thousand (\$63,000) of this penalty shall be waived in lieu of Defendant's compliance with paragraph 9, which paragraph is a penalty credit project. This penalty shall be paid by delivering a certified check to Jena Suhadolnik, Administrative Assistant, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, payable to the order of "Treasurer, State of Ohio," within thirty (30) days of the entry of this Order.

9. Defendant is hereby enjoined to comply with the following penalty credit project. Defendant is enjoined and ordered to vent the particulate emissions from the pouring and cooling area (emissions unit P010) and from the cupola charge door (emissions unit P004) to a baghouse having a design capacity of 100,000 acfm. The allowable particulate emissions from the baghouse shall not exceed .010 gr/dscf.

VI. STIPULATED PENALTIES

10. Defendant shall immediately and automatically be liable for and pay a stipulated penalty in the amount of \$10,000 for each source installed without a permit to install. Payment

of all stipulated penalties shall be paid by Defendants delivering to Plaintiff c/o Jena Suhadolnik, Administrative Assistant, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check payable to the order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty.

11. The imposition, payment and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent the State from pursuing additional remedies civil, criminal or administrative, for violations of applicable laws.

VII. RETENTION OF JURISDICTION

12 The court will retain jurisdiction of this action for the purposes of enforcing this Consent Order.

VIII. COSTS

13. Defendants are hereby ordered to pay the costs of this action.

X. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

14. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED:

ENTERED THIS 29th DAY OF DEC., 1998.


JUDGE, FULTON COUNTY
COURT OF COMMON PLEAS

APPROVED:

STATE OF OHIO,
ex rel. BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

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Kurdziel Iron of Wauseon

BY: Donald L. Hwang
President

Copies Served 12/29 1998
Mary Gype, Clerk
By MB